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FISCAL IMPACT STATEMENT

LS 6372

BILL NUMBER: HB 1317

NOTE PREPARED: Jan 6, 2012

BILL AMENDED:

SUBJECT: Local Government Issues.

FIRST AUTHOR: Rep. Torr

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

County Fiscal Body: The bill specifies that after December 31, 2012, in each county: (1) the county fiscal body is the fiscal body and legislative body of each township in the county; and (2) the county fiscal body shall exercise the legislative and fiscal powers assigned in the Indiana Code to township boards, including the authority to adopt the township's annual budget and to levy township property taxes for township funds.

Township Budgets: It specifies that for township budgets adopted for 2013, the total amount appropriated for a particular year may not exceed the result of: (1) the total amount appropriated for the previous year; multiplied by (2) the assessed value growth quotient applicable to the township for the particular year.

Appropriation Limits: It also provides that if the county fiscal body determines that a township cannot carry out its governmental functions for 2013 under these appropriation limitations, the county fiscal body may appeal to the Department of Local Government Finance (DLGF) for relief from the appropriation limitations.

Township Trustees and Assessors: The bill requires a public question to be placed on the November 2012 general election ballot in each county regarding whether the voters want to abolish the offices of township trustee and (if applicable) township assessor. It provides that if a majority of voters in a county approve the public question, on January 1, 2014: (1) the powers and duties of the township regarding township assistance, cemeteries, and weeds are transferred to the county executive; and (2) the powers and duties of the township assessor are transferred to the county assessor.

Public Funds: The bill provides that public funds from any source may not be expended by a political

subdivision or by the state to promote a position on the public question, and prohibits certain other actions by a political subdivision or the state in promoting a position on the public question.

Marion County - Small Claims Court: The bill provides that if a majority of voters in Marion County approve the public question, the responsibilities of the township trustee concerning township small claims courts are transferred to the mayor and city-county council of the consolidated city. It specifies that: (1) the small claims courts operate independently from the circuit and superior courts; and (2) except for adopting the budget and approving salaries, the city-county council does not have authority over a small claims court judge and the operations of a small claims court.

Marion County - Small Claims Court Constable: The bill provides that if the public question is approved in Marion County, the office of the small claims court constable in Marion County is abolished, and beginning January 1, 2014, personnel provided by the department of public safety of the consolidated city shall perform the duties formerly performed by the constables.

Fire District: It specifies that in counties (other than Marion County) that approve the public question concerning elimination of township government, a fire protection district is established on January 1, 2014, in the unincorporated territory of each township. It also specifies that such a fire protection district: (1) may not be established in the territory of a township that is already included in a fire protection district as of January 1, 2014; (2) does not have a board of fire trustees; and (3) must have a single fire trustee appointed by the county executive. The bill provides that the county fiscal body shall by ordinance set the salary of a fire trustee in the county, and that the salary of a fire trustee shall be paid by the county.

Marion County - Fire Protection: The bill provides that if the public question is approved in Marion County, each township fire department that has not previously been consolidated is consolidated into the fire department of the consolidated city on the earlier of a date set by executive order of the county executive or January 1, 2014.

Mutual Aid Agreements: It provides that, not later than January 1, 2014, each fire department within a county must enter into a mutual aid agreement with one or more other fire departments within the county.

Transfers from a Township to the County: The bill provides that a transfer of powers and duties between a township and the county results in the transfer of that township's property, equipment, personnel, records, rights, contracts, and indebtedness.

Township Assistance: The bill provides that if a township trustee or county trustee does not: (1) accept a completed application for township assistance; or (2) grant or deny a completed application for township assistance within the period required by law; the application is considered denied, and the denial may be appealed.

Township Assistance Planning Board: It establishes a township assistance planning board (board) in each county. The bill provides that the board shall propose, for adoption by the county fiscal body, township standards that apply to all townships effective January 1, 2013. The bill also specifies that in counties that approve the public question, the board must prepare a county plan for delivery of township assistance services that: (1) must be approved by the county executive and county fiscal body; and (2) takes effect January 1, 2014.

It provides that after December 31, 2013, in counties that approve a public question, a county trustee

administers township assistance in the county in accordance with the county plan.

Capital Funds: The bill specifies that, when formulating a proposed annual budget estimate for 2013 and thereafter, the township executive and the county fiscal body shall, with regard to a township capital improvement fund or cumulative building fund, consider the township capital improvement plan. It provides that after December 31, 2012, a township may collect property taxes for a capital improvement fund in a particular year only if the township trustee prepares and the county fiscal body approves a proposed or amended capital improvement plan in the immediately preceding year.

Marion County Board of Commissioners: The bill abolishes the Marion County Board of Commissioners effective July 1, 2012.

Office of Management and Budget: The bill requires the Office of Management and Budget to annually prepare a report that includes certain information regarding each township. It requires the report to be submitted to the Executive Director of the Legislative Services Agency and to county councils.

Office Location: The bill specifies that an office of a political subdivision must include the address, telephone number, and regular office hours (if any) of the office in at least one local telephone directory. It requires a public meeting or a public hearing of an official or governing body of a political subdivision to be held in a public place.

Detailed Expenditure Listing: It requires the annual report of a county, city, town, or township to list separately each expenditure that is made to reimburse the executive of that unit for the executive's use of real and personal property for public business, including any reimbursements made for the use of a private residence, personal telephone, or personal vehicle for public business.

Nepotism: The bill specifies that an individual who is a relative of an officer of a political subdivision may not be employed by the political subdivision. It provides that an individual who is a relative of an employee of a political subdivision may not be employed in a position in which the individual would have a direct supervisory or subordinate relationship with the employee who is the individual's relative. The bill specifies that until January 1, 2013, this provision does not require the termination or reassignment of an employee from a position held by that individual before July 1, 2012.

The bill also prohibits a political subdivision from entering into or renewing contracts with certain individuals or firms.

Annual Reports: The bill provides that the annual report filed by a local government unit with the State Board of Accounts (SBOA) must include a statement by the executive officer of the unit certifying that the political subdivision is in compliance with the nepotism provisions. It provides that if the political subdivision is not in compliance, the DLGF may not approve the political subdivision's budget or additional appropriations for the ensuing calendar year until the SBOA certifies to the DLGF that the political subdivision is in compliance.

It provides that the DLGF may not approve the budget or any additional appropriations of a political subdivision that fails to file: (1) an annual fiscal report; or (2) a personnel report; for the preceding year.

Election of an Employee: The bill provides that an employee of a political subdivision is considered to have resigned from employment with the unit if the employee: (1) assumes the elected executive office of the

political subdivision; or (2) becomes an elected member of the political subdivision's executive, legislative, or fiscal body. The bill makes this provision apply to an employee of a political subdivision who assumes an elected office after June 30, 2012. It provides that in the case of an individual who, on June 30, 2012, holds an elected office of the political subdivision that employs the individual, the individual may continue to hold that elected office and simultaneously be an employee of the political subdivision until the end of the term of office in which the individual was serving on June 30, 2012. It also specifies that this provision does not prohibit an employee of a political subdivision from holding an elected office of a political subdivision other than the political subdivision that employs the employee.

Conflict of Interest: The bill provides that a member of a board, commission, committee, council, or any other body with the responsibility of administering the affairs of a unit may not participate in a decision or vote of the body if the member: (1) has a pecuniary interest in; or (2) derives a profit from; a contract, purchase, sale, employment, or other transaction connected with the unit. It prohibits a member from participating in a decision or vote involving the merger, consolidation, or reorganization of the unit's functions or services, if the member is also an employee of a unit involved in the merger. It requires a member to: (1) disclose a pecuniary interest or profit, in writing, to the governmental body that the member serves on; and (2) provide a copy of the disclosure to the State Board of Accounts.

Single County Commissioner: The bill provides that in counties other than Marion County, the county executive may adopt an ordinance providing that the voters of the county shall elect a single county commissioner as the chief executive officer of the county and a county council that has the legislative and fiscal powers and duties of the county. It provides that such an ordinance may be adopted only during an odd-numbered year or before July 1 of an even-numbered year. It specifies that if such an ordinance is adopted unanimously, the county's government structure shall be changed as provided in the ordinance.

The bill also specifies that if such an ordinance is adopted, but not unanimously, the county's government structure shall be changed as provided in the ordinance only if the change is approved in a referendum by county voters.

It provides that in a county with a single county chief executive officer: (1) the initial county chief executive officer is elected in the second general election after the ordinance to change the structure of county government is approved (if unanimous) or the change is approved in the referendum; (2) the board of county commissioners is abolished; and (3) the membership of the county council continues under existing law.

Township Schools: It provides that if a school township exists in a township in which a public question to eliminate township government is approved, the school township shall reorganize under the school reorganization statutes before January 1, 2014.

Interim Study Committee on Township Assistance: The bill establishes an Interim Study Committee on Township Assistance to study: (1) the base level of township assistance that a township or county should be required to provide; and (2) changing references to "township assistance" in the Indiana Code to "emergency assistance".

Effective Date: Upon passage; July 1, 2012.

Explanation of State Expenditures: *Interim Study Committee on Township Assistance:* The Interim Study Committee on Township Assistance is to operate under the policies governing study committees adopted by the Legislative Council. Legislative Council resolutions in the past have established budgets for interim study

committees in the amount of \$9,500 per interim for committees with fewer than 16 members and \$16,500 per interim for committees with 16 members or more. [The number of members is not specified in the bill.]

Office of Management and Budget (OMB): The bill may increase costs for the OMB to prepare and report on township annual reports with additional information. Under current law, the township provides information on fund balances to the State Board of Accounts (SBOA). This information is compiled into a report at the SBOA main office using support staff. Under the bill, a township is to prepare any information required by the report and not currently reported on the schedule established by the SBOA.

Department of Local Government Finance (DLGF): The bill is expected to have minimal fiscal impact for the DLGF when reviewing township budgets, tax rates, and tax levies in order to consider the ending balance and to receive appeals from townships.

Explanation of State Revenues:

Explanation of Local Expenditures: The bill will have indeterminate fiscal impact on county and township government with some provisions potentially adding cost and others potentially creating cost savings. Some provisions of the bill will apply to all counties and townships throughout the state, while others will apply only to counties where voters choose to eliminate township government, and still others will apply only within Marion County.

Additional Information -

Provisions that Apply to All Counties:

County Fiscal Body: The bill will increase costs for counties by making the county fiscal body the township fiscal and legislative body. County councils may require additional meeting time to establish budgets, consider resolutions, and adopt plans for capital improvements. However, cost savings may result from the elimination of the three-member township boards in counties outside of Marion County.

Nepotism: The nepotism prohibitions would have indeterminate fiscal impact if employees must be terminated or reassigned. The compensation cost differences between the cases where family members are providing services and an independent party provides the service will determine if there are additional costs or cost savings.

Township Budgets: Under current law, the levy for a controlled fund may grow at the rate of the income-based assessed value growth quotient (AVGQ). Budget appropriations, however, are only limited to the total funding that is available. Under the bill, a township's total budget appropriation (including additional appropriations) for only CY 2013 would be limited to the previous year's appropriation plus growth equal to the AVGQ. Current estimates for the AVGQ are 3.2% in CY 2013. A township that cannot function under the appropriation limitations imposed by the bill may appeal to the DLGF for relief.

Total CY 2011 appropriations in all township funds were \$350 M in 91 counties with available data (excluding LaPorte County). The average annual increase in budget appropriations from CY 2006 to CY 2011 was 1.9% (after adjusting for fire department mergers in Marion County). There were 402 townships with average growth above 3.2% between CY 2006 to CY 2011. In CY 2011, there were 297 townships with budget growth exceeding 3.2%. This provision could reduce the appropriations in some townships as

compared to the appropriations under current law. If the 3.2% growth limit had been in effect for CY 2011, township budgets would have been reduced by \$12.4 M.

Other Provisions: The requirement to hold public meetings in public places could minimally increase costs, as may the requirement to list each expenditure reimbursing a city or town executive for use of the executive's tangible property.

Provisions that Apply Upon Vote of County or Action of a County Body:

Single County Commissioner: In counties other than Marion County, the fiscal impact of a county's governing structure being a single county commissioner instead of a three-member county commission will depend on decisions of the county council in setting executive compensation. No current county executive or legislative responsibility is reduced or eliminated but are rather reassigned from a three-member board of county commissioners to an elected single county commissioner, which could potentially change the compensation costs for these positions. Executive compensation is determined by the county fiscal body, and any cost savings will result from the decisions of the fiscal body. Officers are compensated from the county general fund. The average salary for county commissioners in 2010 (for 78 counties reporting) was \$23,445, with a salary range between \$6,775 and \$65,300.

A position similar to the single elected county commissioner may be a city mayor, and similar compensation may be earned by a single county commissioner, depending on the decisions of the county fiscal body. For the 76 second- and third-class cities reporting, there is a correlation between mayor salary and population size when certain outliers are removed from the sample. The following table shows the city population range, the average mayor compensation and compensation range, and the correlation coefficient of city population to mayor salary.

City Population Range	Average Mayor Salary	Mayor Salary Range	Correlation Coefficient
<10,000*	\$42,655	\$8,840 - \$59,618	0.641
11,000 - 69,291	\$69,825	\$49,232 - \$112,762	0.795
107,789 - 251,247	\$104,323	\$94,633 - \$123,600	0.997
*Four outlier cities were excluded from the <10,000 city population range resulting in higher correlation between city population and mayor salary. The cities excluded were Bicknell, Elwood, Rising Sun, and Whiting.			
Source: 2010 IACT Salary, Wage and Fringe Benefits Survey.			

Township Trustees and Assessors: Cost savings may accrue from any management efficiencies created by a county administering township government. While savings will accrue to township residents, the county fiscal body, which fixes the compensation of officers, may increase compensation for county legislative and fiscal bodies or county executives that undertake additional responsibilities from the township trustee. [The median township trustee salary among the 951 townships with available data (including Marion County townships) is \$10,902, ranging from \$277 to \$81,120.]

There are 13 township assessors in Indiana whose duties would transfer to the county assessor upon approval of a public question on January 1, 2014. If the county assessor can provide the assessor services more efficiently than the township assessors, the taxpayers in the township would accrue savings and the county may incur some additional personnel expense to meet the increased workload.

Township Assistance Planning Board: The nine-member board (or ten-member board in counties with a single county executive officer) will develop annual standards for township assistance throughout the county. The plan, which must be approved by the county fiscal body, will include whether township assistance will be provided by a county workforce or by contract. The compensation of the board will be determined by the county fiscal body.

County Trustee: In a county where townships are abolished, the county executive will appoint a county trustee to administer township assistance with the duties and powers of a township trustee, including the ability to employ staff and operate township assistance offices in the county.

Fire Districts: A county executive would appoint a single fire trustee rather than a board of fire trustees for a fire protection district in the unincorporated areas of township that is abolished. The fire trustee has the rights, powers, duties, and responsibilities of a board of fire trustees for a fire protection district. The salary of the fire trustee is to be paid by the fire district.

Township Assistance: The bills provides that a decision to deny township assistance may be appealed to the circuit court in the county. Under current law, the appeal is made to the county board of commissioners.

School Township: A school township will incur additional costs to hold public hearings to discuss methods of reorganizing and develop a plan as required under current state statute concerning organization of school corporations. [There are three school townships in Indiana.]

Provisions that Apply in Marion County:

County Board of Commissioners: In Marion County, the county treasurer, auditor, and assessor comprise the county board to make certain appointments, exercise powers concerning the issuance and payment of bonds, and to exercise powers granted in the Indiana Constitution. The county officials serve as Commissioner ex-officio, meaning that they do not receive compensation specifically for serving on the Board. However, the City-County Council in setting compensation for these officers, could change their salary based on required responsibilities.

Consolidation of Fire Departments: Five township fire departments have merged with the Indianapolis Fire Department under current law provisions for voluntary consolidation. According to an audit of the mergers, for the five-year period 2006 to 2010, fire protection costs increased 9.8% in the consolidated townships, while costs in the other townships (including townships that will be merging) increased 18.9%. The combined staffing level for the consolidated townships is 2.7% less than prior to consolidation, and 17 (or 27%) of the management positions have been eliminated. The table below shows the CY 2010 fire-related fund expenditures by township.

2010 Fire-Related Fund Expenditures						
Township	Date of Consol.	Fire Protection Fund	Cumulative Fire Fund	Fire Debt Fund	Fire Bldg Debt Fund	Total All Fire Funds
Center		0	0	0	0	0
Decatur		10,803,503	486,798	1,896,988	0	13,187,289
Franklin	7/1/2010	16,541,205	590,033	52,484	624,691	17,808,413
Lawrence	1/1/2011	23,740,063	3,233,315	0	0	26,973,378
Perry	8/1/2009	5,422,625	429,274	0	0	5,851,899
Pike		19,982,583	597,119	4,323,025	0	24,902,727
Warren	7/1/2007	0	0	0	0	0
Washington	1/1/2007	0	0	0	0	0
Wayne		44,801,736	183,777	0	0	45,364,377
Totals		121,670,579	5,520,316	6,272,497	624,691	134,088,083
Source: <i>Township 2010 Annual Report</i> , Part 3A.						

Marion County Small Claims Courts: If the county approves the public question, the City-County Council will adopt the budget and approve the salaries of the small claims courts. The small claims courts are independent of the circuit and superior courts, and the executive committee of the superior court and the City-County Council have no authority over a small claims court judge.

Judge Salaries: Full-time and part-time judge salaries are to be determined by the City-County Council. Judge salaries are payable in 12 equal monthly installments.

Clerks: Judges with the approval of the City-County Council are to determine the small claims clerks' salaries, and the minimum salary continues to be \$5,600.

Constables: On January 1, 2014, the Department of Public Safety is to provide adequate personnel to provide services currently provided by the constable and to act as bailiffs of the court, and all assets, debts, property rights, equipment, records, and contracts will transfer to the executive. The executive's designee, six months prior to the end of the constable's term of office, is to begin the transition process and report to the executive on progress. The Department of Public Safety is to provide adequate personnel to act as bailiff of the court, serve processes, carry out orders of the court, and prepare and mail all registered or certified service and as part of the annual budget process, the Marion County legislative body will set their salaries. [Constables are currently paid from the service of process fee, which is \$13, whether delivered in person or by certified mail.]

Explanation of Local Revenues: *County Assistance Fund:* For adopting counties, the county fiscal body is to estimate the total cost of township assistance throughout the county for the following year and adopt

a uniform county tax rate for 2014 and after to meet the estimated costs. The taxes levied for township assistance are to be placed in the fund, and the money in the fund is to be used to pay the expenses and obligations set forth in the annual budget. Drugs and vaccines provided to indigents are to be paid through the county's township assistance fund. Money in the fund at the end of the year does not revert to the county general fund.

Annual Reports: The annual appropriation and annual tax levy for a township may be affected by the bill if the township fails to file its annual report or personnel with SBOA, or it falsely certifies it is in compliance with nepotism provisions. If the township's annual appropriation and annual tax levy remain unchanged, increased costs may not be covered.

Marion County Small Claims Court Fees: Court fees will remain unchanged, but will be paid to the county general fund (township small claims courts account). Fees collected for court administration and judicial salaries are to be deposited in the county general fund in an account for each small claims court. At the end of the fiscal year, any funds remaining in the account may be used for public safety programs as determined by the City-County Council. After December 31, 2014, 40% of the court administration fees are to be used for the operation of small claims courts. In 2010, Marion County small claims courts generated a total of \$4.8 M, including \$1.6 M in state funds, \$0.1 M in county funds, and \$3.1 M in local funds. The local funds would instead go to the county under the bill. Additionally, in 2010, Marion County small claims courts received \$309,400 for serving process by certified mail and almost \$2.0 M for service of process by personal service. These amounts are to be paid directly to the constables.

State Agencies Affected: DLGF; OMB; SBOA.

Local Agencies Affected: Counties and townships.

Information Sources: 2010 township annual reports available at in.gov/itp; <http://www.indianacounties.org/>; *IAC Salary, Wage and Fringe Benefits Survey, 1st & 2nd Class Cities*; *IAC Salary, Wage and Fringe Benefits Survey, 3rd Class Cities*; *IAC 2011 FactBook*; *Consolidated City of Indianapolis, Marion County 2012 Introduced Budget*; *2010 Revenues Generated by Marion County Small Claims Courts*, State Court Administration.

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